

Oct-28-04

05:58pm

From: Moser, Patterson &amp; Sheridan L.L.P.

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T-942 P. 004/009 F-848

PTO/SB/64 (11-03)  
 Approved for use through 07/31/2006. OMB 0651-0031  
 U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE  
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
 UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
 APPM / 3778 /  
 PPC/CMP/RKK

First named inventor: Hung Chen

Application No.: 09/728,038

Art Unit: 3723

Filed: Dec. 1, 2000

Examiner: Grant, A.

Title: Apparatus and Method for Controlling Delivery of  
 Slurry to a Region of a Polishing Device

Attention: Office of Petitions  
 Mail Stop Petition  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450  
 FAX: (703) 872-9306

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OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact  
 Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition Fee - The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 50-1074/3778/PPC/CMP/RKK  
☐ Small entity - fee \$\_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$1370.00 (37 CFR 1.17(m)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Request for Continued Examination (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

[Page 1 of 2]

SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

309499 1

PAGE 4/9 \* RCVD AT 10/28/2004 6:56:51 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-1/5 \* DNIS:8729306 \* CSID:+7136234846 \* DURATION (mm:ss):03:06

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PTO/SB/64 (11-03)  
Approved for use 07/21/2006. OMB 0851-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. Statement. (see attached statement)

October 28, 2004

Date

Robert W. Mulcahy, Registration No. 25,438

Telephone

Number: (713) 623-4844

Signature

Robert W. Mulcahy

Typed or printed name

3040 Post Oak Blvd., Suite 1500

Address

Houston, TX 77056

Address

Enclosures: ☒ Fee Payment

☒ Reply (Request for Continued Examination)

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other : Copy of Petition To Withdraw Holding of Abandonment filed Aug. 15, 2003

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.9(A)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ transmitted by facsimile on the date shown below to the Patent and Trademark Office at (703) 872-9306.

October 28, 2004

Date

Signature

Keith M. Tackett

Typed or printed name of person signing certificate

[Page 2 of 2]

Application No.: 09/728,038  
Atty. Dkt. No.: APPM / 3778 / PPC/CMP/RKK

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STATEMENT FOR PETITION FOR REVIVAL

OFFICE OF PETITIONS

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. The above-identified application became abandoned on April 23, 2003. Applicants promptly filed a Petition to Withdraw Holding of Abandonment, on June 4, 2003, based on the PTO's misplacement of Applicants' Response to the Examiner's final office action under MPEP 711.03(c). The Applicants' Petition was denied. Applicants immediately filed a Request for Reconsideration for reasons of equity on August 15, 2003. The Request for Reconsideration (Petition To Withdraw Holding of Abandonment filed Aug. 15, 2003) is attached hereto. On October 18, 2004, the attorney signing below, i.e., Applicants' outside counsel ("Attorney"), received a request from in-house counsel to compare recently allowed claims in Taiwan with pending claims in this application. On October 12, 2004, Attorney accessed the PAIR system to determine the status of the Request for Reconsideration. Attorney then learned that the Request for Reconsideration has been denied and that, therefore, the application was still abandoned. Attorney immediately (on October 12, 2004) advised in-house counsel for Applicants that a Petition to Revive was possible, pursuant to the patent rules and as indicated in the Petition Board's decision to deny the Petition to Reconsider. On October 13, 2004, in-house counsel then authorized the preparation and filing of this Petition for Revival.

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Respectfully submitted,



Keith M. Tackett  
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MOSER, PATTERSON & SHERIDAN, L.L.P.  
3040 Post Oak Blvd. Suite 1500  
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Attorney for Applicant(s)

PATENT  
Atty. Dkt. No. APPM/3778/CMP/CMP/RKK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re Application of:  
Chen et al.**

Serial No.: 09/728,038

Confirmation No.: 2584

Filed: December 1, 2000

**For: Apparatus and Method  
for Controlling Delivery  
of Slurry to a Region of a  
Polishing Device**

**MAIL STOP PETITION**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

**Dear Sir:**

.....

**Group Art Unit: 3723**

**Examiner: Grant, A.**

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**CERTIFICATE OF MAILING**  
**37 CFR 1.8**

I hereby certify that this correspondence is being deposited on August 15, 2003 with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

August 15, 2003  
Date

**Geo G. McClellan**

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
BASED ON FAILURE TO RECEIVE RESPONSE TO  
FINAL OFFICE ACTION UNDER MPEP 711.03(c)**

The above-identified application became abandoned on April 23, 2003. Applicants promptly filed a Petition to Withdraw Holding of Abandonment based on the PTO's misplacement of Applicants' Response to the Examiner's final office action under MPEP 711.03(c). The Applicants' Petition was denied. However, Applicants respectfully request that the decision be reversed for reasons of equity described below.

Applicants filed their response to the Examiner's final office action on Jan. 23, 2003 (i.e., three months prior to the expiration of the six month date). At the time of the filing Applicants believed the issues were well-defined and that an allowance was imminent, based on the prior communications with the Examiner, both written and oral. Accordingly, the Response contained no amendments to any pending claims, and added one new claim which was believed to have the same basis for allowance as the pending claims. Applicants' primary objective was that at least the pending claims be examined in light of the arguments made in the Applicants' response. Applicants

believed that by filing three months prior to the expiration of the six month date, sufficient time was available for any communications between the Applicants and the Examiner needed to place the claims in condition for allowance, including removing new claim 37, if necessary.

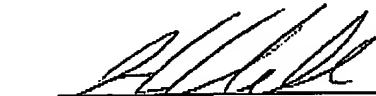
However, despite his best efforts, the Examiner could not locate the Applicants' response. (It was later determined that, while the PTO had received the response, it had been misplaced.) After numerous status inquiries made by the Applicants, and numerous attempts by the Examiner to locate the response, it became clear that the Examiner would not receive the response prior to the expiration of the six-month period. Accordingly, Applicants faxed a copy of the response to the Examiner two days prior to the expiration of the six-month period. Unfortunately, the Examiner's advisory action refusing entry of the response on grounds that the only new claim raised a new issue was not mailed until after the expiration of the six-month statutory period, resulting in abandonment of the application.

Applicants submit that, as a result of events not under their control, they were deprived of their opportunity to have the pending claims examined. Under normal circumstances, filing the response three months prior to the expiration of the statutory period provides ample time to determine if the claims are in condition for allowance. Through no fault of the Applicants or the Examiner, a misplaced document prevented such a determination, resulting in abandonment of the application before Applicants were informed that the response mailed January 23, 2003, raised a new issue.

Applicants recognize that the Decision on this petition supports the Examiner's conclusion that the new claim filed January 23, 2003, raises a new issue. However, Applicants were not informed that a new issue was raised until after the application was abandoned. Accordingly, Applicants respectfully request that the holding of abandonment be withdrawn for consideration by the Examiner of the arguments timely

presented for the pending claims, i.e., claims 1-36, in the response filed on January 23, 2003, since the Applicants were effectively denied the opportunity to resubmit the response without the new claim.

Respectfully submitted,



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## FACSIMILE COVER SHEET

**DATE:** October 28, 2004

**FILE NO:** APPM/3778/PPC/CMP/RKK

**TO:** MAIL STOP PETITION, Commissioner for Patents

**FAX NO:** 1-703-872-9306

**FROM:** Keith M. Tackett

**PAGE(S) with cover:** 9

**ORIGINAL TO FOLLOW?** ☐ YES ☒ NO

**RE: TITLE:** Apparatus and Method for Controlling Delivery of Slurry to a Region of a Polishing Device

**U.S. SERIAL NO.:** 09/728,038

**FILING DATE:** December 1, 2000

**INVENTOR:** Hung Chen et al.

**EXAMINER:** Grant, A.

**GROUP ART UNIT:** 3723

**CONFIRMATION NO.:** 2584

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**OFFICE OF PETITIONS**

Attached are:

1. Petition for Revival
2. Statement
3. Copy of Petition to Withdraw Holding of Abandonment
4. Request for Continued Examination & Fee Transmittal

### CONFIDENTIALITY NOTE

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